

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Helen Howard, Cyril Emiko, and Felicia Bell, individually
and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Marion, FL
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sarah R. Schalman-Bergen, Berger Montague PC, 1818
Market St., Philadelphia, PA 19103, (215) 875-3000

DEFENDANTS

Nordic Consulting, Inc.

County of Residence of First Listed Defendant Dane, WI
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Fair Labor Standards Act, 29 USC 201, et seq.

Brief description of cause:
Unpaid wages, including overtime compensation

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/28/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Plaintiffs Helen Howard (“Howard”), Cyril Emiko (“Emiko”), and Felicia Bell (“Bell”) (collectively “Plaintiffs”) through their undersigned counsel, individually and on behalf of all others similarly situated, file this Class and Collective Action Complaint against Defendant Nordic Consulting, Inc. (“Defendant” or “Nordic”). The following allegations are based on personal knowledge as to Plaintiffs’ own conduct and on information and belief as to the acts of others.

1. This is an action brought pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.* (“FLSA”) and Pennsylvania law, seeking payment of unpaid wages. Plaintiffs, on behalf of themselves and others similarly situated, also seek liquidated damages for the failure to pay overtime wages, as well as attorneys’ fees and costs.

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in violation of Pennsylvania law. The following allegations are based on personal knowledge as to Plaintiffs' own conduct and are made on information and belief as to the acts of others.

JURISDICTION AND VENUE

3. Jurisdiction over Plaintiffs' FLSA claims is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

4. Venue in this Court is proper pursuant to 28 U.S.C. § 1391, because Plaintiffs performed work for Defendant at Lehigh Valley Hospital in Allentown, Pennsylvania, within this judicial district, and therefore a substantial part of the events giving rise to Plaintiffs' claims took place in this district.

PARTIES

5. Plaintiff Helen Howard ("Howard") is an individual residing in Ocala, Florida.

6. Howard worked for Defendant as a consultant providing support and training to Defendant's clients in using a new recordkeeping system at Lehigh Valley Hospital between July 2020 and September 2020.

7. Pursuant to 29 U.S.C. § 216(b), Howard has consented in writing to participate in this action. *See* Ex. A.

8. Plaintiff Cyril Emiko ("Emiko") is an individual residing in Kennesaw, Georgia.

9. Emiko worked for Defendant as a consultant providing support and training to Defendant's clients in using a new recordkeeping system at Lehigh Valley Hospital between June 2020 and September 2020.

10. Pursuant to 29 U.S.C. § 216(b), Emiko has consented in writing to participate in this action. *See* Ex. A.

11. Plaintiff Felicia Bell (“Bell”) is an adult resident of Winston-Salem, North Carolina.

12. Bell worked for Defendant as a consultant providing support and training to Defendant’s clients in using a new recordkeeping system at Lehigh Valley Hospital between July 2020 and September 2020.

13. Pursuant to 29 U.S.C. § 216(b), Bell has consented in writing to participate in this action. *See* Ex. A.

14. Nordic Consulting, Inc. (“Defendant” or “Nordic”) is a Wisconsin corporation which provides information technology educational services for the healthcare industry across the United States. Nordic has its headquarters at 2601 W Beltline Hwy Suite 600, Madison, Wisconsin.

15. Defendant employs individuals engaged in commerce or in the production of goods for commerce and/or handling, selling, or otherwise working on goods or materials that have been moved in or produced in commerce by any person, as required by 29 U.S.C. §§ 206-207.

16. Defendant’s annual gross volume of sales made or business done exceeds \$500,000.

COLLECTIVE ACTION DEFINITION

17. Plaintiffs bring Count I of this lawsuit pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of themselves and the following class of potential FLSA opt-in litigants:

All individuals who worked for Nordic providing training and support to Nordic’s clients in using electronic recordkeeping systems in the United States from October 28, 2017 to the present and were classified as exempt employees (the “FLSA Collective”).

18. Plaintiffs bring Counts II - IV of this lawsuit pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of themselves and the following class:

All individuals who worked for Nordic providing training and support to Nordic's clients in using electronic recordkeeping systems in the United States from October 28, 2016 to the present and were classified as exempt employees (the "Pennsylvania Class").¹

19. The FLSA Collective and the Pennsylvania Class are together referred to as the "Classes."

20. Plaintiffs reserve the right to redefine the Classes prior to notice or class certification, and thereafter, as necessary.

FACTS

21. As healthcare information technology firm, Defendant provides training and support to healthcare facilities in connection with the implementation of new electronic recordkeeping systems.

22. Defendant employs consultants, such as Plaintiffs, who perform such training and support services throughout the United States.

23. Defendant's financial results are significantly driven by the number of consultants performing training and support services for Defendant's customers, and the fees that Defendant charges the customers for these services.

24. Between June and September 2020, Plaintiffs were assigned by Nordic to provide educational and support services to healthcare staff at Lehigh Valley Hospital in Allentown, Pennsylvania.

25. Plaintiffs worked with healthcare staff in a classroom setting and one-on-one on the hospital floor, teaching them how to use the Epic electronic recordkeeping system and answering any questions they had in the process.

¹ The statute of limitations for Count IV (Unjust Enrichment) is four (4) years. The statute of limitations on Counts II-III is three (3) years.

26. Plaintiffs were classified by Defendant as exempt employees. Although Plaintiffs routinely worked up to 70 hours a week, they did not receive compensation for hours worked in excess of 40 a week.

27. In addition, while Defendant offered to sponsor an EPIC certification course for Plaintiffs during their time working on the Lehigh Valley project, the Plaintiffs were not permitted to complete the course, and Defendant subsequently deducted the cost of this course, approximately \$1,000, from the Plaintiffs' pay.

Plaintiffs and FLSA Collective Members are not Exempt as “Computer Employees” or “Highly Compensated Employees” under the FLSA

28. Plaintiffs and FLSA Collective Members provide support and training to hospital staff in connection with electronic recordkeeping systems. Plaintiffs have no specialized training or certification in computer programming, software documentation and analysis, or testing of computer systems or programs.

29. Plaintiffs and FLSA Collective Members were not working as, nor were they similarly skilled as, computer systems analysts, computer programmers, or software engineers, as defined in 29 C.F.R. § 541.400(a).

30. Plaintiffs' and FLSA Collective Members' primary duties consisted of training and aiding healthcare staff, in a classroom and one-on-one, with using the new recordkeeping software. Plaintiffs' and FLSA Collective Members' primary duties did not include the higher skills of the “application of systems analysis techniques and procedures,” pursuant to 29 C.F.R. § 541.400(b)(1). Plaintiffs and FLSA Collective Members did not analyze, consult or determine hardware, software programs or any system functional specifications for Defendant's clients. *See id.*

31. Plaintiffs and FLSA Collective Members did not consult with Defendant's customers to determine or recommend hardware specifications. Plaintiffs and FLSA Collective Members did not design, develop, document, analyze, create, test or modify a computer system or program, as defined in 29 C.F.R. § 541.400(b)(2).

32. While Plaintiffs' and FLSA Collective Members' work involved the use of computers, they were not "primarily engaged in computer systems analysis and programming." U.S. Dept. of Labor, Wage & Hour Div., Fact Sheet #17E: Exemption for Employees in Computer-Related Occupations under the Fair Labor Standards Act (FLSA). Plaintiffs and FLSA Collective Members provided support and training in using electronic recordkeeping systems to Defendant's clients.

33. Plaintiffs and FLSA Collective Members did not perform the duties of an exempt executive, administrative, or professional employee, as defined in 29 U.S.C. § 13(a)(1). Plaintiffs and FLSA Collective Members worked on the hospital floor or in a classroom setting, and provided basic at-the-elbow support and instruction in using a new electronic recordkeeping system, walking hospital staff through how to input, save, and retrieve medical records, input patient medications, etc.

34. Plaintiffs and FLSA Collective Members did not have a role in managing Nordic's operations; did not regularly direct the work of other Nordic employees; and did not hire or fire other employees.

35. Plaintiffs and FLSA Collective Members did not perform work related to management and/or general business operations of Nordic. Plaintiffs and FLSA Collective Members did not exercise discretion as to matters of significance - they were assigned to a

particular part of the hospital, were required to follow a set schedule; and were given specific parameters within which to help the hospital staff navigate the electronic recordkeeping system.

36. Plaintiffs and FLSA Collective Members did not perform work requiring advanced knowledge in a field of science or learning – they were not required to have a specific educational background, and their work involved basic at-the-elbow training and support, in which they assisted hospital staff learning to use a new electronic recordkeeping system.

Defendant Willfully Violated the FLSA

37. Defendant had no reasonable basis to believe that Plaintiffs and the FLSA Collective Members were exempt from the requirements of the FLSA. Rather, Defendant either knew or acted with reckless disregard of clearly applicable FLSA provisions in classifying Plaintiffs and the FLSA Collective Members as exempt employees. Such willfulness is demonstrated by, or may be reasonably inferred from, Defendant's actions and/or failures to act, including the following:

- a. At all times relevant hereto, Defendant maintained payroll records which reflected the fact that Plaintiffs and the FLSA Collective Members did, in fact, regularly work in excess of 40 hours per week, and thus, Defendants had actual knowledge that Plaintiffs and the FLSA Collective Members worked overtime;
- b. At all times relevant hereto, Defendants knew that they did not pay Plaintiffs and the FLSA Collective Members one and one-half (1 ½) times their regular pay rate for hours worked in excess of forty (40) hours per week;
- c. As evidenced by its own job offer letters and training materials for consultants, at all times relevant hereto, Defendant was aware of the nature of the work performed by consultants, and, in particular, that such individuals worked exclusively with

healthcare workers employed by Defendant's clients, providing basic training and support;

- d. As evidenced by its own job offer letters and training materials for consultants, Defendant knew and understood that it was subject to the wage requirements of the FLSA as an "employer" under 29 U.S.C. § 203(d).
- e. At all times relevant hereto, Defendant was aware that their consultants did not engage in: (i) computer systems analysis, computer programming, or software engineering, as defined in 29 C.F.R. § 541.400(a); (ii) the application of systems analysis techniques and procedures, as defined in 29 C.F.R. § 541.400(b)(1); or (iii) the design, development, analysis, creation, testing or modification of a computer system or program, as defined in 29 C.F.R. § 541.400(b)(2);
- f. Defendant lacked any reasonable or good faith basis to believe that its consultants fell within any exemption from the overtime requirements of the FLSA. Rather, Defendant deliberately misclassified its consultants as independent contractors in order to avoid paying them overtime compensation to which they were entitled;
- g. At all times relevant hereto, Defendant was aware that it would (and, in fact did) benefit financially by failing to pay Plaintiffs and the FLSA Collective Members one and one-half (1 ½) times their regular pay rate for hours worked in excess of forty (40) hours per week; and
- h. Thus, Defendant had (and has) a strong financial motive to violate the requirements of the FLSA by misclassifying its consultants as exempt employees.

38. Based upon the foregoing, Defendant was cognizant that, or recklessly disregarded whether, its conduct violated the FLSA.

COLLECTIVE ACTION ALLEGATIONS UNDER THE FLSA

39. Plaintiffs bring this lawsuit pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of the FLSA Collective defined above.

40. Plaintiffs desire to pursue their FLSA claims on behalf of all individuals who opt-in to this action pursuant to 29 U.S.C. § 216(b).

41. Plaintiffs and the FLSA Collective Members are “similarly situated” as that term is used in 29 U.S.C. § 216(b) because, *inter alia*, all such individuals have been subject to Defendant’s common business and compensation practices as described herein, and, as a result of such practices, have not been paid wages, including the legally mandated overtime compensation for hours worked over forty (40) during the workweek. Resolution of this action requires inquiry into common facts, including, *inter alia*, Defendant’s common misclassification, compensation and payroll practices.

42. The FLSA requires non-exempt hourly employees to be compensated at a rate of 1.5 times the regular hourly rate for all hours worked over 40 in a week.

43. Defendant misclassified Plaintiffs and FLSA Collective Members as exempt employees, and, as a result, failed to provide them overtime compensation for hours worked in excess of 40 a week.

44. The similarly situated employees are known to Defendant, are readily identifiable, and can easily be located through Defendant’s business and human resources records.

45. Defendant employs many FLSA Collective Members throughout the United States. These similarly situated employees may be readily notified of this action through U.S. Mail and/or other means, and allowed to opt in to this action pursuant to 29 U.S.C. § 216(b), for the purpose

of collectively adjudicating their claims for overtime compensation, liquidated damages (or, alternatively, interest) and attorneys' fees and costs under the FLSA.

COUNT I
FLSA – Overtime Compensation
(On Behalf of Plaintiffs and the FLSA Collective)

46. All previous paragraphs are incorporated as though fully set forth herein.

47. The FLSA defines “employer” broadly to include “any person acting directly or indirectly in the interest of an employer in relation to an employee...” 29 U.S.C. § 203(d).

48. Defendant is subject to the wage requirements of the FLSA because Defendants is an “employer” under 29 U.S.C. § 203(d).

49. At all relevant times, Defendant has been an “employer” engaged in interstate commerce and/or in the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. § 203.

50. During all relevant times, Plaintiffs and the FLSA Collective Members have been covered employees entitled to the above-described FLSA’s protections. *See* 29 U.S.C. § 203(e).

51. Plaintiffs and the FLSA Collective Members are not exempt from the requirements of the FLSA.

52. Plaintiffs and the FLSA Collective Members are entitled to be paid overtime compensation for all hours worked over forty (40) in a workweek pursuant to 29 U.S.C. § 207(a)(1).

53. Defendant, pursuant to its policies and practices, failed and refused to pay overtime compensation to Plaintiffs and the FLSA Collective members for their overtime hours worked by misclassifying Plaintiffs and the FLSA Collective as exempt employees.

54. Defendant knowingly failed to compensate Plaintiffs and the FLSA Collective

Members at a rate of one and one-half (1 ½) times their regular hourly wage for hours worked in excess of forty (40) hours per week, in violation of 29 U.S.C. § 207(a)(1).

55. In violating the FLSA, Defendant acted willfully and with reckless disregard of clearly applicable FLSA provisions.

56. In violating the FLSA, on information and belief, Defendant did not have any good faith basis to rely on any legal opinion or advice to the contrary.

PENNSYLVANIA CLASS ACTION ALLEGATIONS

57. Plaintiffs bring this action as a class action pursuant to Fed. R. Civ. P. 23 on behalf of themselves and the Pennsylvania Class defined above.

58. The members of the Pennsylvania Class are so numerous that joinder of all members is impracticable. Upon information and belief, there are more than forty (40) members of the Pennsylvania Class.

59. Plaintiffs will fairly and adequately represent and protect the interests of the Pennsylvania Class because there is no conflict between the claims of Plaintiffs and those of the Pennsylvania Class, and Plaintiffs' claims are typical of the claims of the Pennsylvania Class. Plaintiffs' counsel are competent and experienced in litigating class actions and other complex litigation matters, including wage and hour cases like this one.

60. There are questions of law and fact common to the proposed Pennsylvania Class, which predominate over any questions affecting only individual Class members, including, without limitation, whether Nordic has violated and continues to violate Pennsylvania law through its policy or practice of not paying its employees overtime compensation.

61. Plaintiffs' claims are typical of the claims of the Pennsylvania Class members in the following ways, without limitation: (a) Plaintiffs are members of the Pennsylvania Class; (b)

Plaintiffs' claims arise out of the same policies, practices and course of conduct that form the basis of the claims of the Pennsylvania Class; (c) Plaintiffs' claims are based on the same legal and remedial theories as those of the Pennsylvania Class and involve similar factual circumstances; (d) there are no conflicts between the interests of Plaintiffs and the Pennsylvania Class members; and (e) the injuries suffered by Plaintiffs are similar to the injuries suffered by the Pennsylvania Class members.

62. Class certification is appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to the Pennsylvania Class predominate over any questions affecting only individual Class members.

63. Class action treatment is superior to the alternatives for the fair and efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would entail. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action, and no superior alternative exists for the fair and efficient adjudication of this controversy. The Pennsylvania Class members are readily identifiable from Nordic's own employment records. Prosecution of separate actions by individual members of the Pennsylvania Class would create the risk of inconsistent or varying adjudications with respect to individual Pennsylvania Class members that would establish incompatible standards of conduct for Nordic.

64. A class action is superior to other available methods for adjudication of this controversy because joinder of all members is impractical. Further, the amounts at stake for many of the Pennsylvania Class members, while substantial, are not great enough to enable them to

maintain separate suits against Nordic.

65. Without a class action, Nordic will retain the benefit of its wrongdoing, which will result in further damages to Plaintiffs and the Pennsylvania Class. Plaintiffs envision no difficulty in the management of this action as a class action.

COUNT II
Violation of the Pennsylvania Minimum Wage Act
(On Behalf of Plaintiffs and the Pennsylvania Class)

66. All previous paragraphs are incorporated as though fully set forth herein.

67. The Pennsylvania Minimum Wage Act of 1968 (“PMWA”) requires that covered employees be compensated for all hours worked in excess of forty (40) hours per week at a rate not less than one and one-half (1 ½) times the regular rate at which he is employed. *See* 43 P.S. § 333.104(c) and 34 Pa. Code § 231.41.

68. Nordic is subject to the overtime requirements of the PMWA because Nordic is an employer under 43 P.S. § 333.103(g).

69. During all relevant times, Plaintiffs and the Pennsylvania Class members were covered employees entitled to the above-described PMWA’s protections. *See* 43 P.S. § 333.103(h).

70. Nordic’s compensation scheme that is applicable to Plaintiffs and the Pennsylvania Class members failed to comply with either 43 P.S. § 333.104(c) or 34 Pa. Code § 231.41.

71. Nordic knowingly failed to compensate Plaintiffs and the Pennsylvania Class members at a rate of one and one-half (1 ½) times their regular hourly wage for hours worked in excess of forty (40) hours per week, in violation of 43 P.S. § 333.104(c) and 34 Pa. Code § 231.41.

72. Pursuant 43 P.S. § 333.113, employers, such as Nordic, who intentionally fail to pay an employee wages in conformance with the PMWA shall be liable to the employee for the

wages or expenses that were intentionally not paid, court costs and attorneys' fees incurred in recovering the unpaid wages.

73. In violating the PMWA, Nordic acted willfully and with reckless disregard of clearly applicable PMWA provisions.

COUNT III
Violations of the Pennsylvania Wage Payment Law – Unlawful Deductions
(On Behalf of the Pennsylvania Class)

74. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

75. Defendant's actions violate the Pennsylvania Wage Payment and Collection Law ("PWPCCL"), 43 P.S. § 260.1, *et seq.*

76. The PWPCCL provides, in relevant part, as follows:

Every employer shall pay all wages, other than fringe benefits and wage supplements, due to his employees on regular paydays designated in advance by the employer. . . All wages, other than fringe benefits and wage supplements, earned in any pay period shall be due and payable within the number of days after the expiration of said pay period as provided in a written contract of employment or, if not so specified, within the standard time lapse customary in the trade or within 15 days from the end of such pay period. The wage shall be paid in lawful money of the United States or check, except that deductions provided by law, or as authorized by regulation of the Department of Labor and Industry for the convenience of the employer, may be made. . .

43 P.S. § 260.3

77. Plaintiffs were employees of Defendant within the meaning of the PWPCCL and, as such, were entitled to timely payment of wages due to them.

78. Defendant is an employer within the meaning of the PWPCCL.

79. Defendant's policy of deducting, either directly or by separate transaction, amounts from the wages of Plaintiffs and the Pennsylvania Class for EPIC certification courses, results in a violation of the PWPCCL.

80. Plaintiffs and the Pennsylvania Class Members have entered into Agreements with Defendant pursuant to which Plaintiffs and the Pennsylvania Class are to receive certain wages, in compensation for their work as consultants.

81. Defendant's deduction from the wages due to Plaintiffs and the Pennsylvania Wage Deduction Class are not authorized deductions within the meaning of the PWPCL and, upon information and belief, have not been authorized by the Pennsylvania Department of Labor and Industry.

82. Any consent or agreement by Plaintiffs and the Pennsylvania Class related to the aforesaid deductions from their wages is unenforceable as contrary to public policy, as set forth in the PWPCL.

83. Accordingly, Plaintiffs and the Pennsylvania Class are entitled to wages, compensatory damages, statutory penalties, litigation costs, counsel fees, pre- and post-judgment interest, and such further relief as may be just and proper.

COUNT IV
Unjust Enrichment
(On Behalf of Plaintiffs and the Pennsylvania Class)

84. All previous paragraphs are incorporated as though fully set forth herein.

85. Nordic has received and benefited from the uncompensated labors of Plaintiffs and the Pennsylvania Class members, such that to retain said benefit without compensation would be inequitable and rise to the level of unjust enrichment.

86. At all relevant times hereto, Nordic devised and implemented a plan to increase its earnings and profits by fostering a scheme of securing work from Plaintiffs and the Pennsylvania Class members without paying overtime compensation for hours worked in excess of 40 a week, and induced Plaintiffs to sign up for a certification course, which it then required Plaintiffs to pay for.

87. Contrary to all good faith and fair dealing, Nordic induced Plaintiffs and the Pennsylvania Class members to perform work while failing to pay overtime compensation for hours worked in excess of 40 a week as required by law, and induced Plaintiffs to take an EPIC certification course, which Plaintiffs were not permitted to complete, while ultimately requiring Plaintiffs to bear the cost of this course.

88. By reason of having secured the work and efforts of Plaintiffs and the Pennsylvania Class members without paying overtime compensation as required by law, and by improperly requiring Plaintiffs to bear the costs of an EPIC certification course, Nordic enjoyed reduced overhead with respect to its labor costs, and therefore realized additional earnings and profits to its own benefit and to the detriment of Plaintiffs and the Pennsylvania Class members. Nordic retained and continues to retain such benefits contrary to the fundamental principles of justice, equity, and good conscience.

89. Accordingly, Plaintiffs and the Pennsylvania Class are entitled to judgment in an amount equal to the benefits unjustly retained by Nordic.

JURY TRIAL

90. Plaintiffs demand a trial by jury for all issues of act.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs seek the following relief on behalf of themselves and the Classes:

- a. An order permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b);
- b. Prompt notice, pursuant to 29 U.S.C. § 216(b), of this litigation to all potential members of the FLSA Collective;

- c. An order permitting this litigation to proceed as a class action pursuant to Fed. R. Civ. P. 23 on behalf of the Pennsylvania Class;
- d. An order appointing Plaintiffs' attorneys as Class Counsel;
- e. Back pay damages (including unpaid overtime compensation and unpaid wages) and prejudgment interest to the fullest extent permitted under the law;
- f. Liquidated damages to the fullest extent permitted under the law;
- g. Litigation costs, expenses, and attorneys' fees to the fullest extent permitted under the law; and
- h. Such other and further relief as this Court deems just and proper.

Dated: October 28, 2020

Respectfully submitted,

s/ Sarah R. Schalman-Bergen
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hlichten@llrlaw.com

*Attorneys for Plaintiffs
and the Proposed Classes*

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: P.O. Box 2823, Ocala, Florida 34478
Address of Defendant: 2601 W. Beltline Highway, Suite 600, Madison, WI 53713
Place of Accident, Incident or Transaction: Allentown, PA

RELATED CASE, IF ANY:


Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/28/2020


Attorney-at-Law / Pro Se Plaintiff

206211

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2. FELA |
| <input type="checkbox"/> | 3. Jones Act-Personal Injury |
| <input type="checkbox"/> | 4. Antitrust |
| <input type="checkbox"/> | 5. Patent |
| <input checked="" type="checkbox"/> | 6. Labor-Management Relations |
| <input type="checkbox"/> | 7. Civil Rights |
| <input type="checkbox"/> | 8. Habeas Corpus |
| <input type="checkbox"/> | 9. Securities Act(s) Cases |
| <input type="checkbox"/> | 10. Social Security Review Cases |
| <input type="checkbox"/> | 11. All other Federal Question Cases |

(Please specify): _____

B. Diversity Jurisdiction Cases:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2. Airplane Personal Injury |
| <input type="checkbox"/> | 3. Assault, Defamation |
| <input type="checkbox"/> | 4. Marine Personal Injury |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): _____ |
| <input type="checkbox"/> | 7. Products Liability |
| <input type="checkbox"/> | 8. Products Liability – Asbestos |
| <input type="checkbox"/> | 9. All other Diversity Cases |

(Please specify): _____

ARBITRATION CERTIFICATION

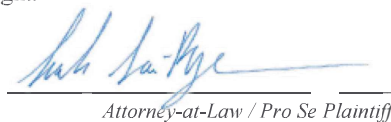
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Sarah R. Schalman-Bergen, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 10/28/2020


Attorney-at-Law / Pro Se Plaintiff

206211

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

EXHIBIT

A

CONSENT TO JOIN AND AUTHORIZATION TO REPRESENT

Pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b)


1. I consent and agree to pursue my claims arising out my work with Nordic Consulting, Inc. in connection with overtime claims.

2. I worked for Nordic Consulting, Inc. in the position of consultant from on or about 6/21/2020 (month, year) to on or about 9/11/2020 (month, year).

3. I understand that this lawsuit is brought under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. I hereby consent, agree, and “opt in” to become a plaintiff herein and to be bound by any judgment by the Court or any settlement of this action.

4. I hereby designate Harold Lichten and Olena Savytska of Lichten & Liss-Riordan, P.C. (Plaintiffs’ Counsel), to represent me for all purposes in this action.

5. I also designate the named plaintiffs in this action, the collective action representatives, as my agents to make decisions on my behalf concerning the litigation, including the method and manner of conducting this litigation, entering into settlement agreements, entering into an agreement with Plaintiffs’ Counsel concerning attorneys’ fees and costs and all other matters pertaining to this lawsuit.

Signature: 

Date: 10/6/2020

Name: Cyril Emiko

Address:

Telephone:

E-Mail:



COMPLETE AND RETURN TO:

LICHTEN & LISS-RIORDAN, P.C.

ATTN: Rebecca Shuford

729 Boylston Street, Suite 2000

Boston, MA 02116

Tel: (617) 994-5800

Fax: (617) 994-5801

www.llrlaw.com

rshuford@llrlaw.com

CONSENT TO JOIN AND AUTHORIZATION TO REPRESENT

Pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b)

1. I consent and agree to pursue my claims arising out my work with Nordic Consulting, Inc. in connection with overtime claims.

2. I worked for Nordic Consulting, Inc. in the position of consultant from on or about
7/2020 (month, year) to on or about 9/2020 (month, year).

3. I understand that this lawsuit is brought under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. I hereby consent, agree, and “opt in” to become a plaintiff herein and to be bound by any judgment by the Court or any settlement of this action.

4. I hereby designate Harold Lichten and Olena Savytska of Lichten & Liss-Riordan, P.C. (Plaintiffs’ Counsel), to represent me for all purposes in this action.

5. I also designate the named plaintiffs in this action, the collective action representatives, as my agents to make decisions on my behalf concerning the litigation, including the method and manner of conducting this litigation, entering into settlement agreements, entering into an agreement with Plaintiffs’ Counsel concerning attorneys’ fees and costs and all other matters pertaining to this lawsuit.

Signature: Felicia Bell

Date: 10/19/20

Name: Felicia Bell

Address: 

Telephone: 

E-Mail: 

COMPLETE AND RETURN TO:

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CONSENT TO JOIN AND AUTHORIZATION TO REPRESENT

Pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b)

1. I consent and agree to pursue my claims arising out my work with Nordic Consulting, Inc. in connection with overtime claims.

2. I worked for Nordic Consulting, Inc. in the position of consultant from on or about July 27, 2020 (month, year) to on or about September 11, 2020 (month, year).

3. I understand that this lawsuit is brought under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. I hereby consent, agree, and “opt in” to become a plaintiff herein and to be bound by any judgment by the Court or any settlement of this action.

4. I hereby designate Harold Lichten and Olena Savytska of Lichten & Liss-Riordan, P.C. (Plaintiffs’ Counsel), to represent me for all purposes in this action.

5. I also designate the named plaintiffs in this action, the collective action representatives, as my agents to make decisions on my behalf concerning the litigation, including the method and manner of conducting this litigation, entering into settlement agreements, entering into an agreement with Plaintiffs’ Counsel concerning attorneys’ fees and costs and all other matters pertaining to this lawsuit.

Signature: *Helen Howard*

Date: October 6, 2020

Name: Helen Howard

Address:  _____

Telephone:  _____

E-Mail:  _____

COMPLETE AND RETURN TO:

LICHTEN & LISS-RIORDAN, P.C.

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